

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SEAN JAMAR RAMSEY,

Defendant-Appellant.

UNPUBLISHED

May 18, 2004

No. 245094

Wayne Circuit Court

LC No. 02-005219

Before: Fitzgerald, P.J., and Jansen and Talbot, JJ.

PER CURIAM.

Defendant was convicted by a jury of first-degree murder, MCL 750.316(1)(a); assault with intent to commit murder, MCL 750.83; possession of a firearm during the commission of a felony, MCL 750.227b; and felon in possession of a firearm, MCL 750.224f. He was sentenced to life in prison for the murder conviction, twenty to forty years in prison for the assault with intent to commit murder conviction, two years in prison for the felony-firearm conviction, and one to five years in prison for the felon in possession of a firearm conviction. Defendant appeals as of right. We affirm.

This case arises from the shooting death of James Cross. On July 6, 2001, Cross was driving through Highland Park when he saw his friend, Marcellis Harris, driving a car that belonged to the passenger, Kyree. Harris and Cross parked their vehicles near the curb, got out, and were standing in the street talking when a white Grand Prix pulled up next to them. Harris identified James Ramsey, defendant's brother, as the driver of the Grand Prix and defendant as the occupant of the front passenger seat. Harris also noticed a third unidentified man in the back seat.

Harris saw that defendant was pointing a gun at them, and he and Kyree hid behind their vehicle. Defendant fired gunshots from a revolver, and James Ramsey fired gunshots from what appeared to be a nine millimeter handgun, extending his arm across the front seat past defendant. A total of three to five gunshots were fired, but nobody was hit. The Grand prix performed a U-turn and returned. James Ramsey fired his weapon from the driver's window, and defendant fired gunshots across the hood of the vehicle while leaning out of the passenger window. Approximately ten to fifteen gunshots were fired, and the Grand Prix drove away. Cross sustained gunshot wounds to his left arm and abdomen, and died two days later as a result of the gunshot wounds. Neither Kyree nor Harris was injured.

Harris made a statement to the police after the shooting, but he admitted at trial that he had given false information because he intended to seek revenge on defendant and James Ramsey without police involvement. He testified that he made a second police statement on August 10, 2001, and he identified defendant and James Ramsey as the shooters and explained his history with them. Harris had known defendant since 1989 and James Ramsey for five years prior to the shooting. Approximately one or one-and-a-half years before the shooting Harris had a verbal argument with James Ramsey. Two or three months after the argument, Harris and James Ramsey got into a fistfight in which Harris prevailed. After the fistfight, Harris did not see James Ramsey or defendant again until the shooting.

Defendant argues that there was insufficient evidence of premeditation and deliberation to sustain his first-degree murder conviction. Challenges to the sufficiency of the evidence in criminal trials are reviewed de novo to determine whether, viewing the evidence in a light most favorable to the prosecutor, any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Randolph*, 466 Mich 532, 572; 648 NW2d 164 (2002).

To show first-degree premeditated murder, some time span between the initial homicidal intent and the ultimate action is necessary to establish premeditation and deliberation, and the interval should be long enough to afford a reasonable person time to take a “second look.” *People v Gonzalez*, 468 Mich 636, 641; 664 NW2d 159 (2003), applying *People v Tilley*, 405 Mich 38, 45; 273 NW2d 471 (1979). Premeditation and deliberation may be established by evidence of (1) the prior relationship of the parties; (2) the defendant’s actions before the killing; (3) the circumstances of the killing itself; and (4) the defendant’s conduct after the homicide. Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime. *People v Abraham*, 234 Mich App 640, 656; 599 NW2d 736 (1999).

Viewed in the light most favorable to the prosecution, the evidence reveals that James Ramsey drove the vehicle, and three to five gunshots were fired the first time defendant and James Ramsey drove by Harris and Cross. Nobody was injured by the first set of gunshots. James Ramsey performed a U-turn and returned, firing an additional ten or fifteen gunshots before driving away. Because defendant and James Ramsey drove toward the victims two separate times with loaded weapons, there was enough time to afford a reasonable person a “second look.” *Tilley, supra* at 45. Moreover, nobody was injured during the first set of gunshots, and the act of returning to fire additional gunshots further establishes that there was sufficient time to afford defendant a second look. *Id.* Accordingly, there was sufficient evidence of premeditation and deliberation.

Although Harris’ testimony revealed to the jury that he had lied in his police statement, absent exceptional circumstances issues of witness credibility are for the jury. *People v Lemmon*, 456 Mich 625, 642; 576 NW2d 129 (1998). “This Court will not interfere with the role of the trier of fact of determining the weight of the evidence or the credibility of witnesses.” *People v Hill*, 257 Mich App 126, 141; 667 NW2d 78 (2003). Accordingly, we conclude that, viewed in a light most favorable to the prosecutor, there was sufficient evidence to permit a rational trier of fact to find that the essential elements of premeditated first-degree murder were proved beyond a reasonable doubt. *Werner, supra* at 530.

Defendant also argues that there was insufficient evidence to sustain his assault with intent to commit murder conviction. The elements of assault with intent to commit murder are (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). Harris testified that defendant fired a gun at him from a moving vehicle. The intent to kill may be proved by inference from any facts in evidence, and because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient. *Id* Defendant's act of firing multiple gunshots at Harris constitutes sufficient evidence of an intent to kill. Accordingly, we conclude that, viewed in a light most favorable to the prosecutor, there was sufficient evidence to permit a rational trier of fact to find that the essential elements of assault with intent to commit murder were proved beyond a reasonable doubt. *Randolph, supra* at 572.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Kathleen Jansen

/s/ Michael J. Talbot